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The Commonwealth of Massachusetts
Executive Office of Public Safety
Fire Safety Commission
Automatic Sprinkler Appeals Board
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MAURICE M. PILETTE
CHAIRMAN

PAUL DONGA
VICE CHAIR

Docket # 05-74
56 Creeper Hill Road
Grafton, MA.

AUTOMATIC SPRINKLER APPEALS BOARD
DECISION AND ORDER

A) Statutory and Regulatory Framework

This administrative appeal hearing is held in accordance with Massachusetts General Law, Chapter 30A; Chapter 148, section 26G, Chapter 6, section 201 and 530 CMR, to determine whether to affirm the decision of the Grafton Fire Department requiring the Appellant, Richard Bezdegian (hereinafter "Appellant") to install automatic sprinklers in a building owned by the Appellant located at 56 Creeper Hill Road, Grafton, Ma.

B) Procedural History

By letter dated June 23, 2005, the Head of the Grafton Fire Department issued a decision to the Appellant requiring automatic sprinklers to be installed in Appellant's building located at 56 Creeper Hill Road, Grafton, Ma, pursuant to the provisions of M.G.L. c. 148, s.26G. On July 18, 2005, the Appellant filed an appeal of this decision with the Automatic Sprinkler Appeals Board.

On August 29, 2005, the Appellant and the Grafton Fire Department were notified of a hearing before the Board. A hearing was held on September 14, 2005, at the Department of Fire Services, Stow, Massachusetts.

Present at the hearing were: Richard Bezdegian and Darlyn Bezdegian, building owners. Present for the Board were: Maurice M. Pilette, (Chairman), Paul Donga and Chief Thomas Coulombe. Peter A. Senopoulos, was the Attorney for the Board. A representative from the Grafton Fire Department was not present for the hearing. The hearing was continued, with the approval of the Appellant, until October 12, 2005 to give additional time for the appellant to present supplemental information and for all parties to be present.

Present at the October 12, 2005 hearing were: Richard Bezdegian, building owner, Mauro Valente, contractor for Appellant, Joseph W. Allen, Attorney for the Appellant, and Grafton Fire Chief Michael F. Gauthier. Present for the Board were: Maurice M. Pilette, (Chairman), Stephen D. Coan, Brian Gore, and Chief Thomas Coulombe. Peter A. Senopoulos, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the decision of the Head of the Fire Department requiring sprinklers in the building located at 56 Creeper Hill Road, Grafton, Ma., should be affirmed, reversed or modified.

D) Evidence Received

1. Appellant's Application for Appeal
2. Documents in Support of Appeal
3. Documents in Support of Appeal
4. Order of the Grafton Fire Department to Appellant
5. 1st Notice of Hearing to Appellant
6. 1st Notice of Hearing to Fire Department
7. Documentation in Support of Appeal
8. Site plan dated July 25, 2005
9. Photographs (A-J) of property
10. Appeals Document – tabs A to E
11. Photographs (10A to 10D)
12. Chemical System Estimate

E) Subsidiary Findings of Fact

1. By letter dated June 23, 2005, the head of the Grafton Fire Department issued a decision to the Appellant requiring that automatic sprinklers be installed in Appellant's building located at 56 Creeper Hill Road, Grafton, Ma. pursuant to the provisions of M.G.L. c. 148, s.26G.
2. On July 18, 2005, the Appellant filed an appeal of said Decision with the Automatic Sprinkler Appeals Board pursuant to the provisions of s. 26G. Hearing notices were sent to the Appellant and to the Grafton Fire Department. The Board held a hearing on September 14, 2005. The hearing was continued to provide time for the Appellant to provide additional information and for a representative of the Grafton fire chief to be present. Hearing notices for a second hearing were sent to the Appellant and to the Grafton Fire Department on September 20, 2005. The Board held a hearing on October 12, 2005.

3. The Town of Grafton adopted the provisions of § 26G in 2002. The building located at 56 Creeper Hill Road was recently constructed and has a floor area of approximately 11,880 square feet and was built at a cost of approximately \$200,000.00.
4. The Appellant provided testimony that building in question is a single floor, wide-open building for the storage of electrical and contracting supplies, equipment and construction vehicles. The appellant also indicated that the building would remain un-occupied during daylight hours except when contracted workers would come to the building to retrieve various pieces of equipment and supplies.
5. It is the Appellant's position that an adequate sprinkler system is not required in this building because there is not currently sufficient water and water pressure to supply such a system. Appellant indicated that the provisions of s. 26G specifically do not apply unless such sufficient water and water pressure exists. Appellant indicated that the building is located in a remote area of town and that the nearest available municipal water supply capable of providing adequate water pressure is approximately 800 to 900 feet away from the building. Appellant indicated that it would cost nearly \$100,000.00 to install the necessary water line to the building site. The actual sprinkler system would cost approximately \$17,000.00. The Appellant indicated that the costs may be substantially greater if rock or ledge is found during the digging. Appellant provided photographs, which indicate that the existence of ledge is likely.
6. The Appellant provided documentation that the installation of an in-ground well system would cost approximately \$202,000.00. Additionally, the installation of an alternative chemical sprinkler system would cost approximately \$575, 000.00.
7. The appellant, is requesting a waiver from the sprinkler requirements of s. 26G. The Fire Chief believes that he does not have the authority to render a waiver from the provisions of the law.
8. Both parties indicate that a G.L. 40B housing development is currently being planned near the subject building. This project is being planned to be located between the subject building and the location of the existing water main. Testimony was provided that the installation of town water for the purposes of the future 40B project would result in a municipal water hook-up being available substantially closer to the subject building. The Appellant's sprinkler installation costs would be dramatically reduced if he were allowed to hook-up the required system to the new water line which will be built as part of the c. 40B project.
9. It is estimated that the completion of the new c. 40B project will take several years.

F) Ultimate Findings of Fact and Conclusions of Law

1. M.G.L. c. 148, s. 148, s. 26G, a local option law, requires that every building of more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. In

accordance with St. 1982, c. 545, s.1 this sprinkler requirement, in pertinent part, applies to... construction of buildings... commenced after July 1, 1983.

2. The Town of Grafton adopted the provisions of s. 26G in 2002. The building located at 56 Creeper Hill Road was recently constructed and has a floor area of approximately 11,880 square feet. The appellant does not contest these findings
3. The Board finds that the building located at 56 Creeper Hill Road, Grafton, Ma., is subject to the provisions of M.G.L. c. 148, s. 26G.
4. However, the board finds that it is not economically practicable to require the Appellant to pay an estimated \$100,000.00 cost associated with the installation of a new waterline to provide adequate water and water pressure for a sprinkler system at this time given the fact that such an adequate water supply will likely be available within the next several years at a significantly reduced cost. Additionally, this building as currently used and occupied, does not present a significant risk to life and safety if the sprinkler installation is delayed pending the availability of adequate water supply in the near future. The Fire Chief did not indicate opposition to this determination.

G) Decision and Order of the Automatic Sprinkler Appeals Board

After careful review of all the testimony and evidence presented to the Board, the Board unanimously determines that the building located at 56 Creeper Hill Road, Grafton, Ma. is subject to the sprinkler requirements of M.G.L. c. 148, s.26G. However, the Board hereby defers the requirement that the Appellant install an adequate system until the Appellant can tie into proposed the available municipal water supply. The Appellant shall install an adequate system of sprinklers within 180 days of the water supply becoming available. This delay is subject to the requirement that the Appellant immediately install an adequate fire alarm warning and fire department notification system designed and installed in accordance with the state building code. The Appellant shall record a copy of this decision in the appropriate Registry of Deeds in order to provide reasonable notice of this determination to any future possible transferees of this building. A copy of the document, as filed, containing the associated Registry book and page number shall be submitted to this Board within 30 days of the date of this decision.

H) Vote of the Board

Maurice M. Pilette, Chairman	In Favor
Stephen D. Coan	In Favor
Brian Gore	In Favor
Thomas Coulombe	In Favor

I) Right of Appeal

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,

A handwritten signature in black ink, appearing to read "Maurice Pilette", written over a horizontal line.

Maurice Pilette, P.E., Chairman
Automatic Sprinkler Appeals Board

Dated: November 22, 2005

A copy of this Decision and Order was forwarded by certified mail, return receipt requested, to: Mr. Richard Bezdegian, 38 Sadler Avenue, Shrewsbury, Massachusetts 01545 and by 1st class mail, postage prepaid, to: Chief Michael Gauthier, Grafton Fire Department, 3 Worcester Street, Grafton, Massachusetts 01519.